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EXAMINER				
VUONG, QUOC HIEN B				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/727,004

**Applicant(s)**

CROMER ET AL.

**Examiner**

Quochien B. Vuong

**Art Unit**

2618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 January 2003.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-22 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 03 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO-8508)  
Paper No(s)/Mail Date 12/03/03  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The information disclosure statement (IDS) submitted on 12/03/2003 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

### ***Claim Rejections - 35 USC § 101***

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 16-22 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 16-22 merely recite "A computer program product comprising software code" and are drawn to a "program" per se as recited in the preamble and as such is non-statutory subject matter. See MPEP § 2106.IV.B.1.a. Data structures not claimed as embodied in computer readable media are descriptive material per se and are not statutory because they are not capable of causing functional change in the computer. See, e.g., *Warmerdam*, 33 F.3d at 1361, 31 USPQ2d at 1760 (claim to a data structure per se held nonstatutory). Such claimed data structures do not define any structural and functional interrelationships between the data structure and other claimed aspects of the invention, which permit the data structure's functionality to be realized. In contrast, a claimed computer readable medium encoded with a data structure defines structural and functional interrelationships between the data structure and the computer software and hardware components which permit the data structure's functionality to be

realized, and is thus statutory. Similarly, computer programs claimed as computer listings per se, i.e., the descriptions or expressions of the programs are not physical "things." They are neither computer components nor statutory processes, as they are not "acts" being performed. Such claimed computer programs do not define any structural and functional interrelationships between the computer program and other claimed elements of a computer, which permit the computer program's functionality to be realized.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sameer et al. (US 7,158,778) in view of Connery et al. (US 6,311,276).

Regarding claims 1, 9, and 16, Sameer et al. disclose a method, an apparatus and a computer program product comprising software code, comprising: receiving a query from a wireless client (column 2, lines 47-49); identifying whether a message corresponds to the wireless client in response to receiving the query (column 3, lines 1-11); and sending the message to the wireless client in response to the identification (column 3, lines 12-23). Sameer et al. do not disclose the message is a wake on LAN

request. However, Connery et al. disclose sending a message comprising a wake on LAN packet (column 1, lines 6-12 and column 2, lines 3-11). Therefore, it would have been obvious for one having ordinary skill in the art at the time the invention was made to adapt the wake on LAN request to the message of Sameer et al. for waking up and turning on the wireless client.

Regarding claims 2, 10, and 17, Sameer et al. disclose receiving a data packet; and storing the data packet (column 3, lines 13-29); and Connery et al. disclose detecting whether the data packet includes the wake on LAN request (column 2, lines 3-11).

Regarding claims 3, 11, and 18, Sameer et al. disclose generating a timestamp to correspond with the wake on LAN request; and associating the timestamp with the wake on LAN request (column 3, lines 30-40).

Regarding claims 4, 12, and 19, Sameer et al. disclose retrieving a retention time; determining whether to remove the wake on LAN request using the retention time and the timestamp; and removing the wake on LAN request based upon the determination (column 2, lines 32-46; and column 3, lines 30-40).

Regarding claims 5, 13, and 20, Sameer et al. disclose wherein the data packet corresponds to a target client, the method further comprising: recognizing whether the target client is an associated client; and performing the storing in response to the recognizing (column 2, lines 47-55).

Regarding claims 6, 14, and 21, Sameer et al. disclose wherein the wireless client is adapted to emerge from sleep mode into receive mode in order to send the query (column 2, lines 11-13 and 47-49).

Regarding claim 7, Sameer et al. disclose wherein the wireless computer network is selected from the group consisting of 802.11a, 802.11b, 802.11g, and Bluetooth (column 1, lines 29-37).

Regarding claims 8, 15, and 22, Connery et al. disclose wherein the identifying is performed using the wireless client's MAC address (column 3, lines 38-47).

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Beach (US 6,067,297) discloses embedded access point supporting communication with mobile unit operating in power-saving mode.

Kato et al. (US 6,915,346) disclose apparatus and system for displaying receipt of a packet.

Dayan et al. (US 7,251,736) disclose remote power control in a multi-node, partitioned data processing system via network interface cards.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quochien B. Vuong whose telephone number is (571) 272-7902. The examiner can normally be reached on M-F 9:30-18:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nay Maung can be reached on (571) 272-7882. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Quochien B Vuong/  
Primary Examiner, Art Unit 2618